

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE
AND PLANTS

Proposed Determination of Critical Habitat for
the Santa Cruz Long-toed Salamander

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Proposed rule.

SUMMARY: The Service hereby proposes Critical Habitat for the Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*) in California. This proposal would make the areas included subject to full protection under Section 7 of the Endangered Species Act of 1973 and is being taken to insure the integrity of two of the four remaining ponds and surrounding areas where this species lives and breeds. The areas proposed as Critical Habitat contain most of the entire known range of this salamander.

DATES: Comments from the public must be received by July 22, 1978. Comments from the Governor of California must be received by September 21, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street, NW., Washington, D.C.

FOR FURTHER INFORMATION
CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Santa Cruz long-toed salamander is among the rarest and most critically endangered amphibians in the United States and has been officially listed as Endangered since 1967. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable, undisturbed habitat and breeding sites. The Service recognizes that areas containing such sites may qualify for recognition as Critical Habitat as referred to in Section 7 of the Act (16 U.S.C. 1536). A notice of intent to determine Critical Habitat for the Santa Cruz long-toed salamander was published by the

Service in the FEDERAL REGISTER of May 16, 1975 (40 FR 21499-21500).

The Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*) was discovered in 1954 at Valencia Lagoon, Rio Del Mar, Santa Cruz County, California. This salamander belongs to a family of North American salamanders (Ambystomatidae) which are rarely seen except during their brief migratory trips to breed in quiet freshwater ponds or lakes.

There are five subspecies of long-toed salamanders inhabiting western North American from California northward to southern Alaska. The Santa Cruz long-toed salamander, however, is a relict form located 150 miles southwest of the range of the nearest other subspecies. Perhaps at one time more wide ranging, drying conditions immediately after the last Pleistocene ice age isolated a small group of long-toed salamanders in Santa Cruz and Monterey Counties where they have been able to survive to the present and evolve characteristics which merit recognition as a unique subspecies.

The former status of the Santa Cruz subspecies is not known since it was not discovered until 1954; at that time the only known population was at Valencia. Two years later, this subspecies was found at Ellicott pond, approximately four miles southwest of Valencia. Additional populations were discovered recently in Monterey County. It is estimated that under 10,000 animals survive in all these sites, which until recently have been under pressure from overcollecting by professional and amateur biologists as well as from the threat of land development. Due to its extremely limited range and very specialized breeding habits, this endangered amphibian is vulnerable to any changes affecting its habitat.

The Santa Cruz Long-toed Salamander Recovery Team, in a Recovery Plan dated October 1976, recommended certain areas as essential habitat to the survival of this species. Accordingly, such areas are included in this proposed rulemaking.

Although measures have been taken to protect, restore, and manage the salamander's habitat, particularly at Valencia and Ellicott, any further degradation of its living space would be critical to its survival. Actions taken to date have temporarily halted the destruction of its breeding grounds in the ephemeral ponds at Valencia and Ellicott, but have not yet been adequate to preserve the complete ecosystem upon which the animal depends and thus insure this subspecies from becoming extinct. Protection of the breeding pond habitat as well as the so-called "upland habitat," to which it migrates for protection between breeding cycles, is essential in sustaining this animal's life cycle.

The areas delineated below have been used by Santa Cruz long-toed salamanders within the last few years, and contain habitat and breeding sites for the species. The two additional areas from which this subspecies is known may be proposed for Critical Habitat designation when more data on them become available.

EFFECT OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical."

A definition of the term Critical Habitat was published in 50 CFR Part 402 by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) and is reprinted below:

"Critical habitat" means any air, land, or water area (exclusive of those existing man-made structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion. (50 CFR 402.02; 43 FR 874-875).

As specified in the regulations for Interagency Cooperation published in the January 4, 1978, FEDERAL REGISTER (43 FR 870), "The Director will consider the physiological, behavioral, ecological, and evolutionary requirements for the survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

- (1) Space for individual and population growth and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species." (50 CFR 402.05(b); 43 FR 876).

The areas proposed as Critical Habitat for the Santa Cruz long-toed salamander at Valencia and Ellicott include all lands at these localities necessary to insure that the known physiological, behavioral, ecological, and evolutionary requirements for the survival and recovery of the species can be met. The areas include ponds which are known breeding sites for the species; these ponds provide sufficient space for larval growth and an adequate food supply for the larvae. The migration patterns for the salamander are known for both localities and are included in the Critical Habitat proposal, as are the woodlands and chaparral normally inhabited by the salamanders during most of the year. Cover and shelter is available both in the aquatic vegetation of the pond and in the root systems and animal burrows of adjacent woodland. Nearly all of the area included as Critical Habitat is now protected from major disturbance since it is owned by the State of California and the Fish and Wildlife Service. These two localities represent a substantial portion of the entire known range of the Santa Cruz long-toed salamander.

There may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species. This point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives, for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what

extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up regulations which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat. Provisions for interagency cooperation were published on January 4, 1978, in the *FEDERAL REGISTER* (43 FR 870, 876) to assist Federal agencies in complying with section 7 of the Endangered Species Act of 1973.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate as possible in delineating the Critical Habitat of the Santa Cruz long-toed salamander. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these proposed rules.

Final promulgation of these Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

A draft environmental assessment is being prepared in conjunction with this proposal. When completed it will be on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202/343-7814).

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below.

The Service proposes to amend § 17.95(d) by adding Critical Habitat of the Santa Cruz long-toed salamander after that of the Pine Barrens tree frog in Florida as follows:

(d) *Amphibians*. * * *

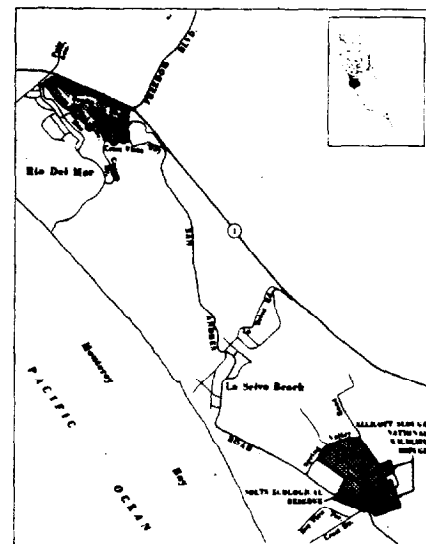
SANTA CRUZ LONG-TOED SALAMANDER

(*Ambystoma macrodactylum croceum*)

California, Santa Cruz County.—(1) Valencia Lagoon Area. An area of land and water in Santa Cruz County, located about 1.0 mile northeast of Rio Del Mar, Calif.,

and more closely described with the following components: An area within T.11S., R.1E., N⁴ sec. 17 M.D.M., bounded by a line extending from the junction of Bonita Drive and Freedom Boulevard (S.W. corner of the highway interchange) and running westerly along the State Highway No. 1 south boundary right-of-way approximately .7 of a mile to its junction with Bonita Drive, thence southwesterly along Bonita Drive about .15 of a mile to its junction with Loma Prieta Drive, thence southeasterly and northeasterly along Loma Prieta Drive approximately .1 of a mile to its junction with the common property line separating Lots 15 and 1 in Block 2, thence southeasterly along this property line and the property line separating Lots 13 and 14 in Block 2 about 310 feet to its junction with Vista Del Mar Drive, thence southeasterly along Vista Del Mar Drive, approximately 1.15 miles to its junction with Crest Vista Way, thence extending northerly along an imaginary line about .2 of a mile to its junction with Bonita Drive and Freedom Boulevard. The area proposed for Critical Habitat determination consists of an estimated 65 acres.

(2) *Ellicott Slough Area*. An area of land and water in Santa Cruz County, located about two miles southeast of La Selva Beach, California, along San Andreas Road, comprised of the following components: An area enclosed and described with sec. 34 and 35, T.11S., R.1E., and sec. 2 and 3 T.12S., R.1E., M.D.M. as bounded on the north by Spring Valley Road and including Lot Partitions 40, 41, 42, portions of San Andres Rancho, Santa Cruz County, California, and said lot partitions are further identified as tracts 2, 10, 10a, 10R, 11, 12, 13, and 14. The area proposed for Critical Habitat determination consists of about 157 acres.



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: June 1, 1978.

LYNN A. GREENWALT,
Director, Fish and
Wildlife Service.

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